

111TH CONGRESS
1ST SESSION

H. R. 3690

To establish a Commission on Recognition of Indian Tribes to review and act on petitions by Indian groups applying for Federal recognition, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 1, 2009

Mr. FALEOMAVAEGA (for himself, Mr. RAHALL, Ms. HIRONO, and Mr. ABERCROMBIE) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To establish a Commission on Recognition of Indian Tribes to review and act on petitions by Indian groups applying for Federal recognition, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE, TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Indian Tribal Federal Recognition Administrative Proce-
6 dures Act”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short title, table of contents.

Sec. 2. Purposes.
 Sec. 3. Definitions.
 Sec. 4. Commission on Recognition of Indian Tribes.
 Sec. 5. Documented petitions for recognition.
 Sec. 6. Notice of receipt of documented petition.
 Sec. 7. Processing the documented petition.
 Sec. 8. Preliminary hearing.
 Sec. 9. Adjudicatory hearing.
 Sec. 10. Reconsideration by Commission; final decision.
 Sec. 11. Effect of determinations.
 Sec. 12. Implementation of decisions.
 Sec. 13. Recognition or restoration of Indian tribes.
 Sec. 14. Indian Reorganization Act.
 Sec. 15. Needs determination and budget request.
 Sec. 16. Annual report concerning Commission's activities.
 Sec. 17. Actions by petitioners for enforcement.
 Sec. 18. Regulations.
 Sec. 19. Guidelines and advice.
 Sec. 20. Assistance to petitioners.
 Sec. 21. Protection of certain privileged information.
 Sec. 22. Authorization of appropriations.

1 SEC. 2. PURPOSES.

2 The purposes of this Act are as follows:

3 (1) To transfer the responsibility for the Fed-
 4 eral acknowledgment process from the Bureau of In-
 5 dian Affairs to an independent Commission on Rec-
 6 ognition of Indian Tribes.

7 (2) To establish a Commission on Recognition
 8 of Indian Tribes to review and act upon documented
 9 petitions submitted by Indian groups that apply for
 10 Federal recognition.

11 (3) To establish an administrative procedure
 12 under which petitions for Federal recognition filed
 13 by Indian groups will be considered.

1 (4) To provide clear and consistent standards of
2 administrative review of documented petitions for
3 Federal acknowledgment.

4 (5) To clarify evidentiary standards and expedite the administrative review process by providing
5 adequate resources to process documented petitions.

6 (6) To ensure that when the Federal Government extends acknowledgment to an Indian tribe,
7 the Federal Government does so with an internally
8 consistent legal, factual, and historical basis.

9 (7) To extend to Indian groups that the Commission determines to be Indian tribes the protection, services, and benefits available from the Federal Government pursuant to the Federal trust responsibility with respect to Indian tribes.

10 (8) To assure that Indian groups that are determined to be Indian tribes are recognized as having the immunities and privileges available to other
11 federally acknowledged Indian tribes by virtue of
12 their status as Indian tribes with a government-to-government relationship with the United States.

13 (9) To preserve the integrity of the government-to-government relationship between the United
14 States and federally recognized Indian tribes by in-

1 suring that only self-governing Indian peoples are
2 recognized by the United States.

3 **SEC. 3. DEFINITIONS.**

4 In this Act:

5 (1) **ACKNOWLEDGMENT.**—The term “acknowl-
6 edgment” means a determination by the Commission
7 on Recognition of Indian Tribes that an Indian
8 group constitutes an Indian tribe with a govern-
9 ment-to-government relationship with the United
10 States.

11 (2) **AUTONOMOUS.**—

12 (A) **IN GENERAL.**—The term “autono-
13 mous” means the exercise of political influence
14 or authority independent of the control of any
15 other Indian governing entity.

16 (B) **CONTEXT OF TERM.**—With respect to
17 a petitioner, the term shall be understood in the
18 context of the history, geography, culture, and
19 social organization of the petitioner.

20 (3) **BUREAU.**—The term “Bureau” means the
21 Bureau of Indian Affairs of the Department.

22 (4) **COMMISSION.**—The term “Commission”
23 means the Commission on Recognition of Indian
24 Tribes established under this Act.

1 (5) COMMUNITY.—The term community refers
2 to a group of related individuals that is distinct from
3 surrounding communities. A tribal community may
4 be found to be distinct, even though some of its
5 members are also members of other tribes. The term
6 shall be understood in the context of the history, cul-
7 ture, and social organization of the group, the intra-
8 tribal marriage patterns of the group, and the geog-
9 raphy and economy of the region in which the group
10 resides.

11 (6) CONTINUOUS OR CONTINUOUSLY.—With re-
12 spect to a period of history of a group, the term
13 “continuous” or “continuously” means extending
14 from 1900 to the present without interruption as
15 demonstrated by evidence of the fact or condition no
16 less than once every ten years.

17 (7) DEPARTMENT.—The term “Department”
18 means the Department of the Interior.

19 (8) DOCUMENTED PETITION.—The term “docu-
20 mented petition” means the detailed, factual expo-
21 sition and arguments, including all documentary evi-
22 dence, necessary to demonstrate that those argu-
23 ments specifically address the mandatory criteria es-
24 tablished in this Act.

1 (9) HISTORICALLY, HISTORICAL, HISTORY.—
2 The terms “historically”, “historical”, and “history”
3 refer to the period dating from 1900.

4 (10) INDIAN GROUP.—The term “Indian
5 group” means any Indian band, pueblo, village, or
6 community that is not acknowledged to be an Indian
7 tribe by the Federal Government.

8 (11) INTERESTED PARTY.—The term “inter-
9 ested party” means any person, organization, or
10 other entity who can establish a legal, factual, or
11 property interest in an acknowledgment determina-
12 tion and who requests an opportunity to submit
13 comments or evidence or to be kept informed of Fed-
14 eral actions regarding a specific petitioner. The term
15 includes the Governor and attorney general of the
16 State in which a petitioner is located, and may in-
17 clude, but is not limited to, local governmental units,
18 and any recognized Indian tribes and unrecognized
19 Indian groups that might be affected by an acknowl-
20 edgment determination.

21 (12) LETTER OF INTENT.—The term “letter of
22 intent” means an undocumented letter or resolution
23 that—

24 (A) is dated and signed by the governing
25 body of an Indian group;

1 (B) is submitted to the Commission; and

2 (C) indicates the intent of the Indian
3 group to submit a documented petition for Fed-
4 eral acknowledgment.

5 (13) PETITIONER.—The term “petitioner”
6 means any group that submits a letter of intent to
7 the Commission requesting acknowledgment as an
8 Indian tribe.

9 (14) SECRETARY.—The term “Secretary”
10 means the Secretary of the Interior.

11 (15) TREATY.—The term “treaty” means any
12 treaty—

13 (A) negotiated and ratified by the United
14 States on or before March 3, 1871, with, or on
15 behalf of, any Indian group or tribe;

16 (B) negotiated by the United States with,
17 or on behalf of, any Indian group in California,
18 whether or not the treaty was subsequently
19 ratified; or

20 (C) made by any government with, or on
21 behalf of, any Indian group or tribe, prior to
22 that government’s entry into the United States,
23 or when the United States acquired jurisdiction
24 over land and territory by purchase, conquest,
25 annexation, or cession and the predecessor gov-

ernment had entered into treaties with any Indian group or tribe without regard to whether the treaty was expressly acceded to or adopted by the successor government.

(16) TRIBAL ROLL.—

(A) IN GENERAL.—The term “tribal roll” means a list exclusively of those individuals who—

(i)(I) have been determined by the tribe to meet the membership requirements of the tribe, as set forth in the governing document of the tribe; or

(II) in the absence of a governing document that sets forth those requirements, have been recognized as members by the governing body of the tribe; and

(ii) have affirmatively demonstrated consent to being listed as members of the tribe.

(B) MEMBERSHIP.—The tribal roll shall be composed principally of persons who are not members of any recognized Indian tribe, provided that the Commission shall not deny recognition to any petitioner if no more than 20 percent of the individuals listed on the tribal

1 roll were at the time that the petition was sub-
2 mitted to either the Secretary or the Commis-
3 sion enrolled as a member of a federally recog-
4 nized Indian tribe.

5 **SEC. 4. COMMISSION ON RECOGNITION OF INDIAN TRIBES.**

6 (a) ESTABLISHMENT.—There is established the Com-
7 mission on Recognition of Indian Tribes. The Commission
8 shall be an independent establishment (as defined in sec-
9 tion 104 of title 5, United States Code).

10 (b) MEMBERSHIP.—

11 (1) IN GENERAL.—

12 (A) MEMBERS.—The Commission shall
13 consist of 7 members appointed by the Presi-
14 dent, by and with the advice and consent of the
15 Senate.

16 (B) INDIVIDUALS TO BE CONSIDERED FOR
17 MEMBERSHIP.—In making appointments to the
18 Commission, the President shall give careful
19 consideration to—

20 (i) recommendations received from In-
21 dian groups and Indian tribes; and

22 (ii) individuals who have a back-
23 ground or who have demonstrated exper-
24 tise and experience in Indian law or policy,

1 anthropology, genealogy, or Native Amer-
2 ican history.

3 (C) BACKGROUND INFORMATION.—No in-
4 dividual shall be eligible for any appointment
5 to, or continue service on the Commission,
6 who—

7 (i) has been convicted of a felony; or

8 (ii) has any financial interest in, or
9 management responsibility for, any Indian
10 group, except merely by virtue of member-
11 ship in such group.

12 (2) POLITICAL AFFILIATION.—Not more than 4
13 members of the Commission may be members of the
14 same political party.

15 (3) TERMS.—Each member of the Commission
16 shall be appointed for a term of 6 years.

17 (4) VACANCIES.—Any vacancy in the Commis-
18 sion shall not affect the powers of the Commission,
19 but shall be filled in the same manner in which the
20 original appointment was made. Any member ap-
21 pointed to fill a vacancy occurring before the expira-
22 tion of the term for which the predecessor of the
23 member was appointed shall be appointed only for
24 the remainder of that term. A member may serve

1 after the expiration of the term of that member until
2 a successor has taken office.

3 (5) COMPENSATION.—

4 (A) IN GENERAL.—Each member of the
5 Commission shall receive compensation at a
6 rate equal to the daily equivalent of the annual
7 rate of basic pay prescribed for level V of the
8 Executive Schedule under section 5316 of title
9 5, United States Code, for each day, including
10 travel time, that the member is engaged in the
11 actual performance of duties authorized by the
12 Commission.

13 (B) TRAVEL.—All members of the Com-
14 mission shall be reimbursed for travel and per
15 diem in lieu of subsistence expenses during the
16 performance of duties of the Commission while
17 away from their homes or regular places of
18 business, in accordance with subchapter I of
19 chapter 57 of title 5, United States Code.

20 (6) FULL-TIME EMPLOYMENT.—Each member
21 of the Commission shall serve on the Commission as
22 a full-time employee of the Federal Government. No
23 member of the Commission may, while serving on
24 the Commission, be otherwise employed as an officer
25 or employee of the Federal Government. Service by

1 a member who is an employee of the Federal Gov-
2 ernment at the time of nomination as a member
3 shall be without interruption or loss of civil service
4 status or privilege.

5 (7) CHAIRPERSON.—At the time appointments
6 are made under paragraph (1), the President shall
7 designate a Chairperson of the Commission (referred
8 to in this section as the “Chairperson”) from among
9 the appointees.

10 (c) MEETINGS AND PROCEDURES.—

11 (1) IN GENERAL.—The Commission shall hold
12 its first meeting not later than 30 days after the
13 date on which all members of the Commission have
14 been appointed and confirmed by the Senate.

15 (2) QUORUM.—A panel of any 3 members of
16 the Commission may conduct any proceedings au-
17 thorized herein, except those authorized under sec-
18 tion 10 which shall be conducted by no fewer than
19 5 commissioners.

20 (3) RULES.—The Commission may adopt such
21 rules (consistent with the provisions of this Act) as
22 may be necessary to establish the procedures of the
23 Commission and to govern the manner of operations,
24 organization, and personnel of the Commission.

1 (4) PRINCIPAL OFFICE.—The principal office of
2 the Commission shall be in the District of Columbia.

3 (d) DUTIES.—The Commission shall carry out the
4 duties assigned to the Commission by this Act, and shall
5 meet the requirements imposed on the Commission by this
6 Act.

7 (e) POWERS AND AUTHORITIES.—

8 (1) POWERS AND AUTHORITIES OF CHAIR-
9 PERSON.—Subject to such rules and regulations as
10 may be adopted by the Commission, the Chairperson
11 may—

12 (A) appoint, terminate, and fix the com-
13 pensation (without regard to the provisions of
14 title 5, United States Code), governing appoint-
15 ments in the competitive service, and without
16 regard to the provisions of chapter 51 and sub-
17 chapter III of chapter 53 of that title, or of any
18 other provision of law, relating to the number,
19 classification, and General Schedule rates) of
20 an Executive Director of the Commission and of
21 such other personnel as the Chairperson con-
22 siders advisable to assist in the performance of
23 the duties of the Commission, at a rate not to
24 exceed a rate equal to the daily equivalent of
25 the annual rate of basic pay prescribed for level

1 V of the Executive Schedule under section 5316
2 of title 5, United States Code; and

3 (B) procure, as authorized by section
4 3109(b) of title 5, United States Code, tem-
5 porary and intermittent services to the same ex-
6 tent as is authorized by law for agencies in the
7 executive branch, but at rates not to exceed the
8 daily equivalent of the annual rate of basic pay
9 prescribed for level V of the Executive Schedule
10 under section 5316 of that title.

11 (2) GENERAL POWERS AND AUTHORITIES OF
12 COMMISSION.—

13 (A) IN GENERAL.—The Commission may
14 hold such hearings and sit and act at such
15 times as the Commission considers appropriate.

16 (B) OTHER AUTHORITIES.—As the Com-
17 mission may consider advisable, the Commission
18 may—

- 19 (i) take testimony;
20 (ii) have printing and binding done;
21 (iii) enter into contracts and other ar-
22 rangements, subject to the availability of
23 funds;
24 (iv) make expenditures; and

1 (v) take other appropriate actions as
2 authorized by this Act.

3 (C) OATHS AND AFFIRMATION.—Any
4 member of the Commission may administer
5 oaths or affirmations to witnesses appearing be-
6 fore the Commission.

7 (3) INFORMATION.—

8 (A) IN GENERAL.—The Commission may
9 secure directly from any officer, department,
10 agency, establishment, or instrumentality of the
11 Federal Government such information as the
12 Commission may require to carry out this Act.
13 Each such officer, department, agency, estab-
14 lishment, or instrumentality shall furnish, to
15 the extent permitted by law, such information,
16 suggestions, estimates, and statistics directly to
17 the Commission.

18 (B) FACILITIES, SERVICES, AND DE-
19 TAILS.—Upon the request of the Chairperson,
20 to assist the Commission in carrying out its du-
21 ties of the department, agency, or instrumen-
22 tality may—

23 (i) make any of the facilities and serv-
24 ices of that department, agency, or instru-
25 mentality available to the Commission; and

1 (ii) detail any of the personnel of that
2 department, agency, or instrumentality to
3 the Commission, on a nonreimbursable
4 basis.

5 (C) MAILS.—The Commission may use the
6 United States mails in the same manner and
7 under the same conditions as other departments
8 and agencies of the United States.

9 (f) FEDERAL ADVISORY COMMITTEE ACT.—The pro-
10 visions of the Federal Advisory Committee Act (5 U.S.C.
11 App.) shall not apply to the Commission.

12 (g) TERMINATION OF COMMISSION.—The Commis-
13 sion shall terminate not later than the date that is 12
14 years after the date of the first meeting of the Commission
15 unless such date is otherwise shortened or extended by an
16 Act of Congress.

17 (h) APPOINTMENTS.—Notwithstanding any other
18 provision of this Act, the Secretary shall continue to exer-
19 cise those authorities vested in the Secretary relating to
20 the supervision of Indian recognition regulated under part
21 83 of title 25 of the Code of Federal Regulations until
22 such time as the Commission is organized and prescribes
23 regulations. The Secretary shall provide staff and support
24 assistance to facilitate an orderly transition to regulation
25 of recognition of Indian tribes by the Commission.

1 **SEC. 5. DOCUMENTED PETITIONS FOR RECOGNITION.**

2 (a) IN GENERAL.—

3 (1) LETTERS OF INTENT AND DOCUMENTED
4 PETITIONS.—Subject to subsection (d) and except as
5 provided in paragraph (3), any Indian group may
6 submit to the Commission letters of intent and a
7 documented petition requesting that the Commission
8 recognize the group as an Indian tribe.

9 (2) TRANSFER OF DOCUMENTED PETITION.—

10 (A) IN GENERAL.—Notwithstanding any
11 other provision of law, not later than 30 days
12 after publication of formal regulations gov-
13 erning the operation of the Commission, the
14 Secretary shall transfer to the Commission all
15 documented petitions, all administrative files re-
16 lated thereto, and letters of intent pending be-
17 fore the Department that request the Secretary
18 to recognize or acknowledge an Indian group as
19 an Indian tribe.

20 (B) CESSATION OF CERTAIN AUTHORITIES
21 OF SECRETARY.—Notwithstanding any other
22 provision of law, on the date of the transfer
23 under subparagraph (A), the Secretary and the
24 Department shall cease to have any authority to
25 recognize or acknowledge, on behalf of the Fed-
26 eral Government, any Indian group as an In-

1 dian tribe under part 83 of title 25, Code of
2 Federal Regulations, and its successors.

3 (C) DETERMINATION OF ORDER OF SUB-
4 MISSION OF TRANSFERRED DOCUMENTED PETI-
5 TIONS.—Documented petitions transferred to
6 the Commission under subparagraph (A) shall,
7 for purposes of this Act, be considered as hav-
8 ing been submitted to the Commission in the
9 same order as those documented petitions were
10 submitted to the Department.

11 (3) EXCLUSION.—The following groups and en-
12 tities shall not be eligible to submit a documented
13 petition for recognition by the Commission under
14 this Act:

15 (A) ENTITIES THAT ARE ELIGIBLE TO RE-
16 CEIVE SERVICES FROM THE BUREAU.—Indian
17 tribes, organized bands, pueblos, communities,
18 and Alaska Native entities that are recognized
19 by the Secretary as of the date of enactment of
20 this Act as eligible to receive services from the
21 Bureau.

22 (B) SPLINTER GROUPS, POLITICAL FAC-
23 TIONS, AND COMMUNITIES.—Splinter groups,
24 political factions, communities, or groups of any
25 character that separate from the main body of

1 an Indian tribe that, at the time of that separa-
2 tion, is recognized as an Indian tribe by the
3 Secretary, unless the group, faction, or commu-
4 nity is able to establish clearly that the group,
5 faction, or community has functioned since
6 1900 as an autonomous Indian tribal entity.

7 (C) GROUPS THAT HAVE PREVIOUSLY SUB-
8 MITTED DOCUMENTED PETITIONS.—Groups, or
9 successors in interest of groups, that before the
10 date of enactment of this Act, have petitioned
11 for and been denied or refused recognition
12 based on the merits of their petition as an In-
13 dian tribe under regulations prescribed by the
14 Secretary (other than an Indian group de-
15 scribed in subsection (d)(1). Nothing in this
16 subparagraph shall be construed as excluding
17 any group that Congress has identified as In-
18 dian, but has not identified as an Indian tribe.

19 (D) INDIAN GROUPS SUBJECT TO TERMI-
20 NATION.—Any Indian group whose relationship
21 with the Federal Government was expressly ter-
22 minated by an Act of Congress.

23 (b) DOCUMENTED PETITION FORM AND CONTENT.—

24 Except as provided in subsection (c), any documented peti-
25 tion submitted under subsection (a) by an Indian group

1 shall be in any readable form that clearly indicates that
2 the documented petition is a documented petition request-
3 ing the Commission to recognize the Indian group as an
4 Indian tribe and that contains detailed, specific evidence
5 concerning each of the following items:

6 (1) LIST OF MEMBERS WHO DESCEND FROM
7 HISTORIC TRIBE(S).—

8 (A) IN GENERAL.—A list of all then cur-
9 rent members of the petitioner, including the
10 full name (and maiden name, if any), date, and
11 place of birth, and then current residential ad-
12 dress of each member, a copy of each available
13 former list of members based on the criteria de-
14 fined by the petitioner, and a statement describ-
15 ing the methods used in preparing those lists.

16 (B) REQUIREMENTS FOR MEMBERSHIP.—
17 In order for the Commission to consider the
18 members of the group to be members of an In-
19 dian tribe for the purposes of the documented
20 petition, that membership shall be required to
21 consist of established descendency from an In-
22 dian group that existed historically, or from his-
23 torical Indian groups that combined and func-
24 tioned as a single autonomous entity.

1 (C) EVIDENCE OF TRIBAL MEMBERSHIP.—

2 Evidence of tribal membership required by the
3 Commission for a determination of tribal mem-
4 bership shall include the following items:

5 (i) DESCENDANCY ROLLS.—

6 Descendancy rolls prepared by the Sec-
7 retary for the petitioner for purposes of
8 distributing claims money, providing allot-
9 ments, or other purposes.

10 (ii) CERTAIN OFFICIAL RECORDS.—

11 Federal, State, or other official records or
12 evidence identifying then present members
13 of the petitioner, or ancestors of then
14 present members of the petitioner, as being
15 descendants of a historic tribe or historic
16 tribes that combined and functioned as a
17 single autonomous political entity.

18 (iii) ENROLLMENT RECORDS.—

19 Church, school, and other similar enroll-
20 ment records identifying then present
21 members or ancestors of then present
22 members as being descendants of a historic
23 tribe or historic tribes that combined and
24 functioned as a single autonomous political
25 entity.

1 (iv) AFFIDAVITS OF RECOGNITION.—

2 Affidavits of recognition by tribal elders,
3 leaders, or the tribal governing body identi-
4 fying then present members or ancestors of
5 then present members as being descend-
6 ants of 1 or more historic tribes that com-
7 bined and functioned as a single auton-
8 omous political entity.

9 (v) OTHER RECORDS OR EVIDENCE.—

10 Other records or evidence based upon anal-
11 ysis by historians, anthropologists, and
12 genealogists with established expertise on
13 the petitioner or Indian entities in general,
14 identifying then present members or ances-
15 tors of then present members as being de-
16 scendants of 1 or more historic tribes that
17 combined and functioned as a single auton-
18 omous political entity.

19 (2) EVIDENCE OF COMMUNITY.—

20 (A) DISTINCT COMMUNITY.—A statement
21 of facts and an analysis of such facts estab-
22 lishing that the group comprises a community
23 of related members distinct from surrounding
24 communities continuously since 1900.

1 (B) EVIDENCE OF DISTINCT COMMU-
2 NITY.—Evidence that the Commission may rely
3 upon in determining that the petitioner meets
4 the distinct community criterion may include
5 one or more of the following items:

6 (i) Political structures or processes
7 limited to the group by which decisions
8 that affect the group are made, such as
9 the allocation of resources or the settle-
10 ment of disputes among members.

11 (ii) Political disagreements among the
12 individual members of the group over
13 group policies, processes, or decisions.

14 (iii) Significant rates of informal so-
15 cial interaction, social relationships, such
16 as marriage or shared economic activity,
17 among members of the group.

18 (iv) Cultural patterns among a signifi-
19 cant portion of the group's members such
20 as language, religious beliefs and practices,
21 or religious organizations.

22 (v) The majority of the group's mem-
23 bers exhibits collateral as well as lineal
24 kinship ties through generations to the
25 third degree.

1 (vi) Other evidence deemed relevant or
2 probative by the Commission.

3 (C) CONCLUSIVE EVIDENCE OF DISTINCT
4 COMMUNITY.—A petitioner shall be considered
5 to have conclusively established a distinct com-
6 munity for any period in which it establishes
7 one of the following:

8 (i) Not less than $\frac{1}{3}$ of the members
9 of the group who are married are married
10 to other members of the group.

11 (ii) Not less than 50 percent of the
12 members of the group reside in geo-
13 graphical area(s) that are exclusively or al-
14 most exclusively composed of members of
15 the group.

16 (iii) The State in which the petitioner
17 principally resides has continuously since
18 1900 recognized the group as a self-gov-
19 erning Indian community or has held a
20 reservation for the group.

21 (iv) A continuous line of group lead-
22 er(s) with a description of the means of se-
23 lection or acquiescence by a majority of the
24 group' s members.

1 (3) GOVERNING DOCUMENT.—A copy of the
2 then present governing document of the petitioner
3 that includes the membership criteria of the peti-
4 tioner. In the absence of a written document, the pe-
5 titioner shall be required to provide a statement de-
6 scribing in full the membership criteria of the peti-
7 tioner and the then current governing procedures of
8 the petitioner.

9 (4) PETITIONER BURDEN OF PROOF.—At all
10 levels of Commission consideration of a petition, and
11 upon any reconsideration of appellate review of such
12 petition, the Petitioner shall be considered to have
13 satisfied any requirement if the evidence submitted,
14 taken together, establishes a reasonable likelihood of
15 the validity of the facts establishing the satisfaction
16 of that requirement. No higher level of proof shall
17 be required, and conclusive proof of a single fact re-
18 lating to a requirement shall not be necessary for
19 the requirement to be considered met.

20 (c) EXPEDITED DECISION.—

21 (1) EXPEDITED NEGATIVE.—Within 6 months
22 of receipt of a documented petition, the Commission
23 shall, where appropriate, publish a notice of deter-
24 mination that the petitioner shall not be recognized
25 upon a determination that the petitioner failed to

1 demonstrate Indian ancestry as required by sub-
2 section (b)(3);

3 (2) EXPEDITED FAVORABLE.—Within 6 months
4 of receipt of a documented petition the Commission,
5 upon the request of the petitioner, shall publish a
6 notice of determination that the petitioner shall be
7 acknowledged as an Indian tribe upon the Commis-
8 sion’s determination that the petitioner has dem-
9 onstrated that it has comprised a distinct commu-
10 nity for a time depth of 10 years prior to the date
11 upon which the petitioner filed a completed petition
12 before either the Secretary or the Commission, and
13 any of the following:

14 (A) Where 90 percent or more of its mem-
15 bers descend from a tribe recognized by treaty
16 with the United States.

17 (B) Where 90 percent or more of its mem-
18 bers descend from a historic tribe for which the
19 State in which the petitioner principally resides
20 has since 1900 recognized a reservation for that
21 petitioner.

22 (C) Where 90 percent or more of its mem-
23 bers descend from a historic tribe and are mem-
24 bers of a tribe held to constitute an Indian tribe

1 under Federal law by a Federal court or a
2 State court of last resort.

3 (D) Where 90 percent or more of its mem-
4 bers descend from a historic tribe that the
5 United States has at one time unambiguously
6 acknowledged.

7 (3) EFFECT OF AN EXPEDITED DETERMINA-
8 TION.—A noticed expedited determination shall be
9 deemed a final decision by the Commission, unless
10 the expedited determination is rebutted as follows:

11 (A) Within 60 days after the publication of
12 the notice of expedited determination an inter-
13 ested party or the petitioner submits comments
14 on the notice.

15 (B) Such comments pertain to the basis of
16 the expedited determination.

17 (C) In the event such comments are sub-
18 mitted, the notice of expedited determination
19 shall not constitute a final decision of the Com-
20 mission and the petitioner shall be entitled to
21 an adjudicatory hearing under section 9.

22 (d) HEARING FOR PREVIOUSLY DENIED GROUPS.—

23 (1) IN GENERAL.—Indian groups that have
24 been denied or refused recognition as an Indian tribe
25 under regulations prescribed by the Secretary shall

1 be entitled to an adjudicatory hearing under section
2 9 before the Commission, if the Commission deter-
3 mines that the criteria established by this Act
4 changes the evaluation of the merits of the Indian
5 group's documented petition submitted to the De-
6 partment.

7 (2) HEARING RECORD.—For purposes of para-
8 graph (1), the Commission shall review the adminis-
9 trative record containing the documented petition
10 that formed the basis of the determination to the In-
11 dian group by the Secretary.

12 (3) TREATMENT OF SECRETARY'S FINAL DE-
13 TERMINATION.—For purposes of the adjudicatory
14 hearing under section 9, the Secretary's final deter-
15 mination shall be considered a preliminary deter-
16 mination under section 8(b)(1)(B).

17 (4) OFFICIAL GOVERNMENT ACTIONS TO BE
18 CONSIDERED CONCERNING EVIDENCE OF CRI-
19 TERIA.—A statement and an analysis of facts sub-
20 mitted under this section may establish that, for any
21 given period of time for which evidence of criteria is
22 lacking, such absence of evidence corresponds in
23 time with official acts of the Federal or relevant
24 State Government which prohibited or penalized the
25 expression of Indian identity. For such periods of

1 time, the absence of evidence shall not be the basis
2 for declining to acknowledge the petitioner.

3 (e) DEADLINE FOR SUBMISSION.—

4 (1) DOCUMENTED PETITIONS.—No Indian
5 group may submit a documented petition to the
6 Commission later than 8 years after the date of the
7 first meeting of the Commission.

8 (2) LETTERS OF INTENT.—In the case of a let-
9 ter of intent, the Commission shall publish in the
10 Federal Register a notice of such receipt, including
11 the name, location, and mailing address of the peti-
12 tioner. A petitioner who has submitted a letter of in-
13 tent or had a letter of intent transferred to the Com-
14 mission under section 5 shall be required to submit
15 a documented petition within 3 years after the date
16 of the first meeting of the Commission to the Com-
17 mission. No letters of intent will be accepted by the
18 Commission later than 3 years after the date of the
19 first meeting of the Commission.

20 **SEC. 6. NOTICE OF RECEIPT OF DOCUMENTED PETITION.**

21 (a) PETITIONER.—

22 (1) IN GENERAL.—Not later than 30 days after
23 a documented petition is submitted or transferred to
24 the Commission under section 5(a), the Commission
25 shall—

1 (A) send an acknowledgment of receipt in
2 writing to the petitioner; and

3 (B) publish in the Federal Register a no-
4 tice of that receipt, including the name, loca-
5 tion, and mailing address of the petitioner and
6 such other information that—

7 (i) identifies the entity that submitted
8 the documented petition and the date the
9 documented petition was received by the
10 Commission;

11 (ii) indicates where a copy of the doc-
12 umented petition may be examined; and

13 (iii) indicates whether the documented
14 petition is a transferred documented peti-
15 tion that is subject to the special provi-
16 sions under paragraph (2).

17 (2) SPECIAL PROVISIONS FOR THE TRANS-
18 FERRED DOCUMENTED PETITIONS.—

19 (A) IN GENERAL.—With respect to a docu-
20 mented petition that is transferred to the Com-
21 mission under section 5(a)(4), the notice pro-
22 vided to the petitioner, shall, in addition to pro-
23 viding the information specified in paragraph
24 (1), inform the petitioner whether the docu-

1 mented petition constitutes a documented peti-
2 tion that meets the requirements of section 5.

3 (B) AMENDED PETITIONS.—If the petition
4 described in subparagraph (A) is not a docu-
5 mented petition, the Commission shall notify
6 the petitioner that the petitioner may, not later
7 than 120 days after the date of the notice, sub-
8 mit to the Commission an amended petition
9 that is a documented petition for review under
10 section 7.

11 (C) EFFECT OF AMENDED PETITION.—To
12 the extent practicable, the submission of an
13 amended petition by a petitioner by the date
14 specified in this paragraph shall not affect the
15 order of consideration of the petition by the
16 Commission.

17 (b) OTHER NOTIFICATION.—In addition to providing
18 the notification required under subsection (a), the Com-
19 mission shall notify, in writing, the Governor and attorney
20 general of, and each federally recognized Indian tribe
21 within, any State in which a petitioner resides.

22 (c) PUBLICATION; OPPORTUNITY FOR SUPPORTING
23 OR OPPOSING SUBMISSIONS.—

24 (1) PUBLICATION.—The Commission shall pub-
25 lish the notice of receipt of each documented petition

(including any amended petition submitted pursuant to subsection (a)(2)) in a major newspaper of general circulation in the town or city located nearest the location of the petitioner.

(2) OPPORTUNITY FOR SUPPORTING OR OPPOSING SUBMISSIONS.—

(A) IN GENERAL.—Each notice published under paragraph (1) shall include, in addition to the information described in subsection (a), notice of opportunity for interested parties to submit factual or legal arguments in support of, or in opposition to, the documented petition.

(B) COPY TO PETITIONER.—A copy of any submission made under subparagraph (A) shall be provided to the petitioner within 90 days upon receipt by the Commission.

(C) RESPONSE.—The petitioner shall be provided an opportunity to respond within 90 days to any submission made under subparagraph (A) before a determination on the documented petition by the Commission.

SEC. 7. PROCESSING THE DOCUMENTED PETITION.

(a) REVIEW.—

(1) IN GENERAL.—Upon receipt of a documented petition submitted or transferred under sec-

tion 5(a) or submitted under section 6(a)(2)(B), the Commission shall conduct a review to determine whether the petitioner is entitled to be recognized as an Indian tribe.

(2) CONTENT OF REVIEW.—The review conducted under paragraph (1) shall include consideration of the documented petition, supporting evidence, and the factual statements contained in the documented petition.

(3) OTHER RESEARCH.—In conducting a review under this subsection, the Commission may—

(A) initiate other research for any purpose relative to analyzing the documented petition and obtaining additional information about the status of the petitioner; and

(B) consider such evidence as may be submitted by interested parties.

(4) ACCESS TO LIBRARY OF CONGRESS AND NATIONAL ARCHIVES.—Upon request by the petitioner, the appropriate officials of the Library of Congress and the National Archives shall allow access by the petitioner to the resources, records, and documents of those entities, for the purpose of conducting research and preparing evidence concerning the status of the petitioner.

1 (b) CONSIDERATION.—

2 (1) IN GENERAL.—Except as otherwise pro-
3 vided in this subsection, documented petitions sub-
4 mitted or transferred to the Commission shall be
5 considered on a first come, first served basis, deter-
6 mined by the date of the original filing of each such
7 documented petition with the Commission (or the
8 Department if the documented petition is trans-
9 ferred to the Commission pursuant to section
10 5(a)(4) or is an amended petition submitted pursu-
11 ant to section 6(a)(2)(B)). The Commission shall es-
12 tablish a priority register that includes documented
13 petitions that are pending before the Department as
14 of the date of the first meeting of the Commission.

15 (2) PRIORITY CONSIDERATION.—Each docu-
16 mented petition (that is submitted or transferred to
17 the Commission pursuant to section 5(a) or that is
18 submitted to the Commission pursuant to section
19 6(a)(2)(B)) of an Indian group that meets 1 or more
20 of the requirements set forth in section 5(c) shall re-
21 ceive priority consideration over a documented peti-
22 tion submitted by any other Indian group.

23 **SEC. 8. PRELIMINARY HEARING.**

24 (a) IN GENERAL.—Not later than 60 days after the
25 receipt of a documented petition by the Commission sub-

mitted or transferred under section 5(a) or submitted to the Commission pursuant to section 6(a)(2)(B), the Commission shall—

- (1) set a date for a preliminary hearing at which the Commission shall preside which shall in no instance be held later than 180 days after receipt of the documented petition, and at which the petitioner and any other interested party may provide evidence concerning the status of the petitioner; or
- (2) publish its expedited decision under section 5(d).

(b) DETERMINATION.—Not later than 30 days after the conclusion of a preliminary hearing under subsection (a), the Commission shall make a determination—

- (1) to extend Federal acknowledgment of the petitioner as an Indian tribe to the petitioner; or
- (2) that the petitioner should proceed to an adjudicatory hearing at which the Commission shall preside.

(c) INFORMATION TO BE PROVIDED PREPARATORY TO AN ADJUDICATORY HEARING.—

- (1) IN GENERAL.—If the Commission makes a determination under subsection (b)(2) that the petitioner should proceed to an adjudicatory hearing, the Commission shall—

(A)(i) not later than 30 days after the date of such determination, make available to the petitioner all records relied upon by the Commission and its staff in making the preliminary determination to assist the petitioner in preparing for the adjudicatory hearing;

(ii) include such guidance as the Commission considers necessary or appropriate to assist the petitioner in preparing for the hearing; and

(B) not later than 30 days after the conclusion of the preliminary hearing under subsection (a), provide a written notification to the petitioner that includes a list of any deficiencies or omissions that the Commission relied on in making a determination under subsection (b)(2).

(2) SUBJECT OF ADJUDICATORY HEARING.—

The list of deficiencies and omissions provided by the Commission to a petitioner under paragraph (1)(B) shall be the subject of the adjudicatory hearing. The Commission may not make any additions to the list after the Commission issues the list.

SEC. 9. ADJUDICATORY HEARING.

(a) IN GENERAL.—Not later than 180 days after the conclusion of a preliminary hearing under section 8(a), the

1 Commission shall afford a petitioner who is subject to sec-
2 tion 8(b)(2) an adjudicatory hearing at which the Commis-
3 sion shall preside. The subject of the adjudicatory hearing
4 shall be the list of deficiencies and omissions provided
5 under section 8(c)(1)(B) and shall be conducted pursuant
6 to sections 554, 556, and 557 of title 5, United States
7 Code.

8 (b) TESTIMONY FROM STAFF OF COMMISSION.—In
9 any hearing held under subsection (a), the Commission
10 shall require testimony from the acknowledgment and re-
11 search staff of the Commission or other witnesses involved
12 in the preliminary determination. Any such testimony
13 shall be subject to cross-examination by the petitioner.

14 (c) EVIDENCE BY PETITIONER.—In any hearing held
15 under subsection (a), the petitioner may provide such evi-
16 dence as the petitioner considers appropriate.

17 (d) DETERMINATION BY COMMISSION.—Not later
18 than 60 days after the conclusion of any hearing held
19 under subsection (a), the Commission shall—

- 20 (1) make a determination concerning the exten-
21 sion or denial of Federal acknowledgment of the pe-
22 titioner as an Indian tribe to the petitioner;
- 23 (2) publish the determination of the Commis-
24 sion under paragraph (1) in the Federal Register;
- 25 and

6 (a) REQUEST FOR RECONSIDERATION.—

(2) DEADLINE.—A petitioner's or interested party's request for reconsideration must be received by the Commission no later than 90 days after the date of publication of the Commission panel's determination under section 9(d) and 30 days under section 5(d). The Commission shall dismiss a request for reconsideration that is not filed by the deadline.

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1 section 5(d), whether the request alleges any of the
2 grounds in subsection (d) and shall notify the peti-
3 tioner and interested parties of it reconsidered deter-
4 mination.

5 (4) FINAL DECISION.—If no request for recon-
6 sideration has been received, the Commission panel’s
7 decision under section 9(d) and section 5(d) shall be
8 final 90 days after publication of the final deter-
9 mination in the Federal Register.

10 (b) DETAILED STATEMENT.—

11 (1) IN GENERAL.—The petitioner’s or inter-
12 ested party’s request for reconsideration shall con-
13 tain a detailed statement of the grounds for the re-
14 quest.

15 (2) STATEMENT CONSIDERED OPENING
16 BRIEF.—The detailed statement of grounds for re-
17 consideration filed by a petitioner or interested par-
18 ties shall be considered the appellant’s opening brief.

19 (3) COPIES.—The party or parties requesting
20 the reconsideration shall mail copies of the request
21 to the petitioner and all other interested parties.

22 (c) REVIEW.—The Commission shall review all re-
23 quests for reconsideration that are timely filed and that
24 allege any of the following:

1 (1) That there is new evidence that could affect
2 the determination.

3 (2) That a substantial portion of the evidence
4 relied upon in the Commission panel's determination
5 was unreliable or was of little probative value.

6 (3) That petitioner's or the Commission panel's
7 research appears inadequate or incomplete in some
8 material respect.

9 (4) That there are reasonable alternative inter-
10 pretations, not previously considered, of the evidence
11 used for the determination under section 9(d) or
12 under section 5(d), that would substantially affect
13 the determination that the petitioner meets or does
14 not meet one or more of the criteria in section
15 5(b)(1) to (3) or is eligible for an expedited decision
16 under section 5(c).

17 (d) COMMISSION OVERSIGHT OF REQUEST FOR RE-
18 CONSIDERATION.—

19 (1) AUTHORITY TO REVIEW.—The Commission
20 shall have authority to review determinations of a
21 Commission panel made pursuant to section 9(d)
22 and section 5(d).

23 (2) PROCEDURES FOR FULL AND FAIR EVALUA-
24 TION.—The Commission may establish such proce-
25 dures as it deems appropriate to provide a full and

1 fair evaluation of a request for reconsideration under
2 this section to the extent they are not inconsistent
3 with this Act.

4 (3) EXPERTS.—The Commission, at its discre-
5 tion, may request experts not associated with the
6 Commission, any panel of the Commission, the peti-
7 tioner, or interested parties to provide comments,
8 recommendations, or technical advice concerning the
9 determination, the administrative record, or mate-
10 rials filed by the petitioner or interested parties. The
11 Commission may also request, at its discretion, com-
12 ments or technical assistance from the Commission
13 panel concerning the final determination under sec-
14 tion 9(b) or under section 5(d) and the record used
15 for either determination.

16 (4) ADMINISTRATIVE RECORD.—For purposes
17 of review by the Commission, the administrative
18 record shall consist of all appropriate documents
19 held by the Commission relevant to the determina-
20 tion involved in the request for reconsideration. The
21 Commission panel shall designate and make avail-
22 able to the Commission copies of critical documents
23 central to the portions of the determination under a
24 request for reconsideration. The Commission panel
25 shall retain custody of the remainder of the adminis-

1 trative record, to which the Commission shall have
2 unrestricted access.

3 (5) PANEL'S DETERMINATION AFFIRMED.—The
4 Commission shall affirm the Commission panel's de-
5 termination if the Commission finds that the peti-
6 tioner or interested party has failed to establish, by
7 a preponderance of the evidence, at least one of the
8 grounds under subsection (c).

9 (6) PANEL'S DETERMINATION VACATED.—The
10 Commission shall vacate the Commission panel's de-
11 termination and remand it to the Commission panel
12 for further work and reconsideration if the Commis-
13 sion finds that the petitioner or an interested party
14 has established, by a preponderance of the evidence,
15 one or more of the grounds under subsection (c).

16 **SEC. 11. EFFECT OF DETERMINATIONS.**

17 A determination by the Commission under section
18 9(d) that an Indian group is recognized by the Federal
19 Government as an Indian tribe shall not have the effect
20 of depriving or diminishing—

21 (1) the right of any other Indian tribe to govern
22 the reservation of such other tribe as that reserva-
23 tion existed before the recognition of that Indian
24 group, or as that reservation may exist thereafter;

1 (2) any property right held in trust or recog-
2 nized by the United States for any other Indian
3 tribe as that property existed before the recognition
4 of that Indian group; or

5 (3) any previously or independently existing
6 claim by a petitioner to any such property right held
7 in trust by the United States for any other Indian
8 tribe before the recognition by the Federal Govern-
9 ment of that Indian group as an Indian tribe.

10 **SEC. 12. IMPLEMENTATION OF DECISIONS.**

11 Upon recognition by the Commission of a petitioner
12 as an Indian tribe under this Act, the Indian tribe shall—

13 (1) be eligible for the services and benefits from
14 the Federal Government that are available to other
15 federally recognized Indian tribes by virtue of their
16 status as Indian tribes with a government-to-govern-
17 ment relationships with the United States;

18 (2) have the responsibilities, obligations, privi-
19 leges, and immunities of those Indian tribes; and

20 (3) be included on the list of federally recog-
21 nized tribes under the Federally Recognized Indian
22 Tribe List Act of 1994 (25 U.S.C. 479a et seq.;
23 Public Law 103–454) (as amended by section 12 of
24 this Act).

1 **SEC. 13. RECOGNITION OR RESTORATION OF INDIAN**
2 **TRIBES.**

3 The Federally Recognized Indian Tribe List Act of
4 1994 (25 U.S.C. 479a et seq.; Public Law 103–454) is
5 amended by striking section 103 and inserting the fol-
6 lowing:

7 **“SEC. 103. RECOGNITION AND RESTORATION OF INDIAN**
8 **TRIBES.**

9 “Indian tribes may be recognized or restored by—

10 “(1) Federal law;

11 “(2) the Commission on Recognition of Indian
12 Tribes;

13 “(3) reorganization under the Indian Reorga-
14 nization Act or the Alaska Indian Reorganization
15 Act; and

16 “(4) any final decision of a United States
17 court.”.

18 **SEC. 14. INDIAN REORGANIZATION ACT.**

19 The Act of June 18, 1934 (25 U.S.C. 461 et seq.;
20 popularly known as the “Indian Reorganization Act”), is
21 applicable to all tribes recognized by the Commission,
22 without regard to whether such tribe was under Federal
23 jurisdiction as of June 18, 1934.

24 **SEC. 15. NEEDS DETERMINATION AND BUDGET REQUEST.**

25 (a) IN GENERAL.—Not later than 180 days after an
26 Indian group is recognized by the Commission as an In-

1 dian tribe under this Act, the appropriate officials of the
2 Bureau and the Indian Health Service of the Department
3 of Health and Human Services shall consult and develop
4 in cooperation with the Indian tribe, and forward to the
5 Secretary or the Secretary of Health and Human Services,
6 as appropriate, a determination of the needs of the Indian
7 tribe and a recommended budget required to serve the
8 newly recognized Indian tribe.

9 (b) SUBMISSION OF BUDGET REQUEST.—Upon re-
10 ceipt of the information described in paragraph (1), the
11 appropriate Secretary shall submit to the President a rec-
12 ommended budget along with recommendations, con-
13 cerning the information received under paragraph (1), for
14 inclusion in the annual budget submitted by the President
15 to the Congress pursuant to section 1108 of title 31,
16 United States Code.

17 **SEC. 16. ANNUAL REPORT CONCERNING COMMISSION'S AC-**
18 **TIVITIES.**

19 (a) ANNUAL REPORT.—

20 (1) IN GENERAL.—Beginning on the date that
21 is 1 year after the date of the first meeting of the
22 Commission, and annually thereafter, the Commis-
23 sion shall prepare and submit a report to the Com-
24 mittee on Indian Affairs of the Senate and the Com-
25 mittee on Natural Resources of the House of Rep-

1 representatives that describes the activities of the Com-
2 mission.

3 (2) CONTENT OF REPORTS.—Each report sub-
4 mitted under this subsection shall include, at a min-
5 imum, for the year that is the subject of the re-
6 port—

7 (A) the number of documented petitions
8 pending at the beginning of the year and the
9 names of the petitioners;

10 (B) the number of documented persons re-
11 ceived during the year and the names of peti-
12 tioners;

13 (C) the number of documented petitions
14 the Commission approved for acknowledgment
15 during the year and the names of the acknowl-
16 edged petitioners;

17 (D) the number of documented petitions
18 the Commission denied for acknowledgment
19 during the year and the names of the peti-
20 tioners; and

21 (E) the status of all pending documented
22 petitions on the date of the report and the
23 names of petitioners.

1 **SEC. 17. ACTIONS BY PETITIONERS FOR ENFORCEMENT.**

2 Any petitioner may bring an action in the district
3 court of the United States for the district in which the
4 petitioner resides, or the United States District Court for
5 the District of Columbia, to enforce the provisions of this
6 Act, including any time limitations within which actions
7 are required to be taken, or decisions made, under this
8 Act. The district court shall issue such orders (including
9 writs of mandamus) as may be necessary to enforce the
10 provisions of this Act.

11 **SEC. 18. REGULATIONS.**

12 The Commission may, in accordance with applicable
13 requirements of title 5, United States Code, promulgate
14 and publish such regulations as may be necessary to carry
15 out this Act.

16 **SEC. 19. GUIDELINES AND ADVICE.**

17 (a) GUIDELINES.—Not later than 90 days after the
18 date of the first meeting of the Commission, the Commis-
19 sion shall make available to Indian groups suggested
20 guidelines for the format of documented petitions, includ-
21 ing general suggestions and guidelines concerning where
22 and how to research information that is required to be
23 included in a documented petition. The examples included
24 in the guidelines shall not preclude the use of any other
25 appropriate format.

1 (b) RESEARCH ADVICE.—The Commission may, upon
2 request, provide suggestions and advice to any petitioner
3 with respect to the research of the petitioner concerning
4 the historical background and Indian identity of that peti-
5 tioner. The Commission shall not be responsible for con-
6 ducting research on behalf of the petitioner.

7 **SEC. 20. ASSISTANCE TO PETITIONERS.**

8 (a) GRANTS.—

9 (1) IN GENERAL.—The Secretary of Health and
10 Human Services may award grants to Indian groups
11 seeking Federal recognition as Indian tribes to en-
12 able the Indian groups to—

13 (A) conduct the research necessary to sub-
14 stantiate documented petitions under this Act;
15 and

16 (B) prepare documentation necessary for
17 the submission of a documented petition under
18 this Act.

19 (2) TREATMENT OF GRANTS.—The grants
20 made under this subsection shall be in addition to
21 any other grants the Secretary of Health and
22 Human Services is authorized to provide under any
23 other provision of law.

24 (b) COMPETITIVE AWARD.—The grants made under
25 subsection (a) shall be awarded competitively on the basis

1 of objective criteria prescribed in regulations promulgated
2 by the Secretary of Health and Human Services.

3 **SEC. 21. PROTECTION OF CERTAIN PRIVILEGED INFORMA-**
4 **TION.**

5 Notwithstanding any other provision of law, upon the
6 effective date of this Act, when responding to any requests
7 for information on petitions and related materials filed by
8 a group seeking Federal recognition as an Indian tribe
9 pursuant to part 83 of title 25 of the Code of Federal
10 Regulations, including petitions and related materials
11 transferred to the Commission from the Department
12 under section 5(a)(2), as well as related materials located
13 within the Department that have yet to be transferred to
14 the Commission, the Department and the Commission
15 shall exclude materials identified by the petitioning group
16 as information related to religious practices or sacred
17 sites, and which the group is forbidden to disclose except
18 for the limited purpose of Department and Commission
19 review.

20 **SEC. 22. AUTHORIZATION OF APPROPRIATIONS.**

21 (a) COMMISSION.—There are authorized to be appro-
22 priated to the Commission to carry out this Act (other
23 than section 17) such sums as are necessary for each of
24 fiscal years 2010 through 2018.

1 (b) SECRETARY OF HHS.—There are authorized to
2 be appropriated to the Secretary of Health and Human
3 Services to carry out section 17 such sums as are nec-
4 essary for each fiscal years 2010 through 2018.

○